

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Case No. 6:04-cr-60008-MC-1

v.

RONALD LESTER PARRY,

**STIPULATION AND ORDER
VACATING AND SETTING ASIDE
SENTENCE PURSUANT TO 28 U.S.C.
§ 2255**

Defendant.

This matter is before the Court on defendant's motion to vacate or correct his sentence pursuant to 28 U.S.C. § 2255. Pursuant to the Ninth Circuit's opinion in *United States v. Valencia-Mendoza*, 912 F.3d 1215 (9th Cir. 2019), the parties agree that Mr. Parry no longer qualifies for sentencing under the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e). The parties agree that Mr. Parry's 28 U.S.C. § 2255 motion should be granted and that the appropriate remedy is to vacate the current sentence and grant a full resentencing on all charges.¹ On resentencing, the government reserves the right to argue that Mr. Parry still qualifies for sentencing under 18 U.S.C. § 924(c) and the career offender provisions of U.S.S.G. § 4B1.2.

¹ While the government is agreeing to resentencing in this case, the government reserves the right in future cases to argue that a § 2255 motion is not timely if based on *Valencia-Mendoza* or to distinguish *Valencia-Mendoza*.

Accordingly, the parties agree that the Court should resolve this matter by entering an order granting the 28 U.S.C. § 2255 motion, vacating the sentences on all counts, and ordering that a resentencing hearing be scheduled. The parties agree that defendant shall remain detained in the custody of the Bureau of Prisons pending resentencing.

Based on the above,

IT IS HEREBY ORDERED that the 28 U.S.C. § 2255 motion is granted and the sentences on Counts 1 through 3, imposed on October 18, 2005, are hereby vacated and set aside.

IT IS FURTHER ORDERED that the United States Bureau of Prisons and the United States Marshals Service are directed to produce the defendant to the Court for resentencing on a date to be set by separate minute order.

IT IS FURTHER ORDERED, based on the stipulation of the parties, that the defendant shall remain detained in the custody of the Bureau of Prisons pending the resentencing.

Dated this 14th day of May, 2019.

s/Michael J. McShane
HONORABLE MICHAEL J. McSHANE
United States District Court Judge

Presented upon agreement of the parties by:

s/ Elizabeth G. Daily
ELIZABETH G. DAILY
Assistant Federal Public Defender
Counsel for Defendant

BILLY J. WILLIAMS
United States Attorney

s/ Amy E. Potter
AMY E. POTTER
Assistant United States Attorney